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Clauses 2 and 3 were put and carried.

Clause 1 and the Preamble were put and carried.

* THE HON. SRI M. BHAKTAVATSALAM :—" Sir, I move—

' That the Societies Registration (Madras Amendment) Bill, 1954 (L.A. Bill No. 35 of 1954), as passed by the Assembly, be passed into law.' "

MR. CHAIRMAN :—" The question is—

' That the Societise Registration (Madras Amendment) Bill, 1954 (L.A. Bill No. 35 of 1954), as passed by the Assembly, be passed into law.' "

The motion was carried and the Bill was passed into law.

(7) THE MADRAS COMMERCIAL CROPS MARKETS (AMENDMENT) BILL, 1954 (L.A. BILL NO. 36 OF 1954).

* THE HON. SRI M. BHAKTAVATSALAM :—" Sir, I move—

' That the Madras Commercial Crops Markets (Amendment) Bill[a] *, 1954 (L.A. Bill No. 36 of 1954), as passed by the Assembly, be taken into consideration.' "*

" The Madras Commercial Crops Markets Act, 1933, has now been on the Statute Book for over two decades. This Act was passed as a result of the recommendation made in the Report of the Royal Commission on Agriculture in 1928. This Commission stressed the need for the establishment of regulated markets for commercial crops under State legislation as these markets were in a disorganized state and laboured under many disadvantages.

" The main object of this marketing legislation is to create conditions of better marketing for the cultivator with a view to getting him a better and fair price for his produce. The average ryot is ignorant of the several malpractices obtaining in trade and as a consequence he is duped of his legitimate profits which usually go to the middleman. For example, weights and measures are manipulated, prices are raised or lowered at the will of brokers or trade agents, who being well-trained in their professions are more efficient and skilful. Illegal exactions are also made in the name of charity or trade allowances. These evils deprive the producers of a fair price for their produce.

" Under the Act, seven districts of this State have been notified for regulation of better marketing in specified commercial crops. These districts are—

(i) South Arcot district (in respect of groundnut, cotton and gingelly);

(ii) Coimbatore (in respect of cotton, groundnut and tobacco);

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[a] Printed as Appendix VIII on pages 527–528 infra.

(iii) Malabar (in respect of coconuts and arecanuts and their by-products);

(iv) South Kanara (in respect of coconuts and arecanuts and their by-products);

(v) Ramanathapuram (in respect of groundnut and cotton);

(vi) Tirunelveli (in respect of cotton); and

(vii) North Arcot (in respect of groundnut).

"About two years ago, certain merchants, mainly from the Ramanathapuram and Tirunelveli districts, filed writ petitions in the Madras High Court, generally contending that the Act was *ultra vires* of the Constitution and that in any case, it put unnecessary restrictions on trade by asking it to take out licences under the Act and to pay fees on commercial crops bought and sold in the notified area. The High Court generally pronounced the Act as a valid piece of marketing legislation under the Constitution; but at the same time, it held Section 5 (4) (*a*) of the Act and part of rule 37 of the rules issued thereunder as void. Under Section 5 (4) (*a*) the Collector has got absolute discretion to grant or refuse to grant a licence to any trader. Rule 37 prohibits persons who have not registered themselves as buyers and sellers from carrying on business in the notified area. It was considered by the High Court that the discretionary powers conferred on the Collector in the matter of issue of licences were in excess. At the same time, the Court held that this decision did not entail the entire licensing regulation becoming void because its only result was that all applicants were entitled to obtain licences provided they paid the prescribed fee and complied with other conditions. The system of licensing itself has been considered as inevitable, once regulation of business is contemplated.

"The High Court held that rule 37 of the rules issued under the Act was not in conformity with the intention of the Act as it has obviously been provided in consequence of Section 18 (2) (v-a) which provided for the registration of buyers, sellers, etc., and prohibits buying and selling of commercial crops in the notified area by persons not so registered. It was held by the High Court that apart from licensing, under Section 5 of the Act, the maintenance of electoral rolls was only contemplated which meant that registration which was merely voluntary for purposes of election should not be taken to mean that the Act sanctions compulsory registration for trading purposes also; it was stated that the restriction is an infringement on the inherent right of a person to do his lawful avocation and as such should be construed as void. The Government are advised that though the High Court did not specifically pronounce Section 18 (2) (v-a) to be void, the last portion of this section which permits the rule being made prohibiting persons from carrying on business in a notified area should be construed to be void.

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" Another question that has arisen is in regard to rule 3 of the Madras Commercial Crops Markets Rules, 1948. The rule prescribed certain modes of publication of a notification under Section 3 or 4 of the Madras Commercial Crops Markets Act 1933, with a view to making it known to all persons affected thereby. It is sometimes not possible to adhere strictly to the letter of this rule and publish a notification according to the various modes prescribed on account of which any notification not so published becomes invalid. Sometime back, in respect of certain prosecutions launched by the South Kanara Market Committee, it was held by the District Court, Mangalore, that the Committee was not validly constituted on the ground that it was not able to prove to the satisfaction of the Court that the notifications in respect of the constitution of the Committee had been published in the various modes prescribed in rule 3 of the Madras Commercial Crops Markets Rules. With a view to validate the constitution of the South Kanara Market Committee as also to provide for cases in which notifications under Section 4 have already been published, it is proposed to give retrospective effect to the amendment to Section 4 of the Madras Commercial Crops Markets Act, 1933.

" It will be thus seen that the amending Bill before the House seeks to bring the provisions of the Act aforesaid in consonance with the Constitution and the judgments of the Madras High Court and the South Kanara District Court. The amending Bill will also be conducive to the smooth working of the Act.

" With these words, I commend this Bill for the acceptance of the House."

MR. CHAIRMAN :—" The question is—

'That the Madras Commercial Crops Markets (Amendment) Bill, 1954 (L.A. Bill No. 36 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2 to 4 were put and carried.

Clause 1 and the Preamble were put and carried.

* THE HON. SRI M. BHAKTAVATSALAM :—" Sir, I move—

'That the Madras Commercial Crops Markets (Amendment) Bill, 1954 (L.A. Bill No. 36 of 1954), as passed by the Assembly, be passed into law.' "

MR. CHAIRMAN :—" The question is—

'That the Madras Commercial Crops Markets (Amendment) Bill, 1954 (L.A. Bill No. 36 of 1954), as passed by the Assembly, be passed into law.' "

The motion was carried and the Bill was passed into law.